

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

CHRISTOPHER GENE LYMAN;
JESSICA HELEN O'DANIEL,

Plaintiff,

v.

SAXON MORTGAGE SERVICES, INC.;
OCWEN LOAN SERVICING, LLC; FIRST
NLC FINANCIAL SERVICES, LLC; and
DOES 1 through 100, inclusive,

Defendants.

No. C 11-00433

ORDER VACATING MOTION TO
DISMISS (Doc. No. 9)

This action was originally filed in Mendocino Superior Court and was removed to this court on January 28, 2011. (Docket No. 1.) There are three named Defendants in this case: Saxon Mortgage Services, Inc.; Ocwen Loan Servicing, LLC; and First NLC Financial Services, LLC. Defendant First NLC Financial Services has not yet appeared in this action. Pending before the court are Defendant Ocwen Loan Servicing's motion to dismiss filed February 23, 2011 (Docket No. 5) and Saxon Mortgage Services' motion to dismiss filed February 23, 2011. (Docket No. 9.)¹

Plaintiffs filed an amended complaint on March 15, 2011. (Docket No. 12.) This amended complaint was filed within 21 days after service of the motions to dismiss. It was therefore timely

¹Defendant Saxon Mortgage Services filed a consent to proceed before a United States Magistrate Judge on February 23, 2011. (Docket No. 7.) Defendant Ocwen Loan Servicing filed its consent to proceed before a United States Magistrate Judge on March 3, 2011. (Docket No. 11.) Defendant First NLC Financial Services has not yet filed either a consent or a declination. On January 28, 2011, Defendant Ocwen Loan Servicing filed a certificate of interested entities, listing First NLC Financial Services as one such entity. (Docket No. 3.) While this Defendant has yet appeared in the action, the 120 days in which Plaintiffs may serve it has not expired.

1 under Rule 15(a) of the Federal Rules of Civil Procedure. Because the properly filed amended
2 complaint superceded the original complaint, Defendants' motions to dismiss have become moot.
3 Accordingly the pending motions to dismiss are HEREBY VACATED without prejudice to
4 Defendants' right to file motions to dismiss the amended complaint. The hearings set for April 5,
5 2011, are VACATED.
6 IT IS SO ORDERED.

7
8 Dated: March 25, 2011



NANDOR J. VADAS
United States Magistrate Judge